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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,116	12/03/2004	Helmut Sieber	2002CH004	3131
25255	7590	01/28/2008	EXAMINER	
CLARIANT CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 4000 MONROE ROAD CHARLOTTE, NC 28205			KHAN, AMINA S	
		ART UNIT	PAPER NUMBER	
		1796		
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		01/28/2008		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/517,116	SIEBER, HELMUT	
	Examiner	Art Unit	
	Amina Khan	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 October 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 and 8-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 and 8-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/ are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

1. This office action is in response to applicant's amendments filed on October 29, 2007.
2. Claims 1-6 and 8-17 are pending. Claim 7 has been cancelled. Claims 1,4,8 and 11 have been amended.
3. The objection to the abstract is withdrawn.
4. The rejection of claims 1-5,11,13 and 14 under 35 U.S.C. 102(b) as being anticipated by Bohler (US 4,439,562) is withdrawn.
5. The rejection of claims 1-5,11 and 14 under 35 U.S.C. 102(b) as being anticipated by Papenfuhs et al. (US 4,265,632) is withdrawn.
6. The rejection of claims 1,2,6,7,11 and 14 under 35 U.S.C. 102(b) as being anticipated by Shirasaki et al. (US 5,942,011) is withdrawn.
7. The rejections of claims 1-6 and 13-15 under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mach et al. (2001/0004780) are withdrawn.

8. The rejection of claims 1-3,7,11 and 12 under 35 U.S.C. 103(a) as obvious over Reinert et al. (US 4,895,981) are withdrawn.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 2 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Von der Eltz et al. (US 3,681,005).

Von der Eltz et al. teach treating polyester with an aqueous exhausting liquor comprising a chromium complex (column 5, example 5).

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Accordingly, the teachings of Von der Eltz are sufficient to anticipate the material limitations of the instant claims Von der Eltz.

12. Claims 8-12 and 16 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mach et al. (2001/0004780).

Mach et al. teach spin-dyeing polyesters with dye mixtures comprising C.I. Solvent Brown 53 and C.I. Disperse Violet 57 (page 1, paragraphs 0010-0012). Mach et al. further teach printing the textiles with the same dye combinations (page 1, paragraph 0014). Mach et al. further teach producing military camouflage articles with the dyed fibers (page 1, paragraph 0009). While Mach et al. is silent as to producing clothing from the textiles, this would be encompassed by the teachings of Mach et al. since camouflage military uniforms are commonly produced from dyed polyester.

Accordingly, Mach et al. anticipate the limitations of the instant claims.

In the alternative, if the teachings of Mach et al. are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to select the instantly claimed components from the teachings of Mach et al. to arrive at the instant invention because Mach et al. teach similar textiles dyed by similar dyes with similar methods. Mach et al. further teach producing camouflage articles with high fastness levels and methods that are more economical. It would further have been obvious to produce clothing from the dyed polyester textile because military uniforms are commonly camouflage and polyester is a well-known component of textile materials.

13. Claims 1-6 are rejected under 35 U.S.C. 103(a) as obvious over Mach et al. (2001/0004780) in view of Schwander (US 4,221,911).

Mach et al. is relied upon as described in paragraph 12.

Mach et al. do not teach the instantly claimed thermosol or exhaust dyeing.

Schwander teaches that in the case of dyeing polyester with water insoluble dyes, it is functionally equivalent to use spin dyeing as well as exhaust dyeing in water baths or thermosol processes (column 8, lines 24-68; column 9, lines 1-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Mach by incorporating the exhaust or thermosol methods of Schwander because Schwander teaches the functional equivalence of dyeing polyester with water insoluble dyes with these methods. Substitution of art recognized equivalents only requires routine skill in the art.

14. Claim 13 is rejected under 35 U.S.C. 103(a) as obvious over Mach et al. (2001/0004780) in view of Schwander (US 4,221,911) and further in view of Bohler et al. (US 4,439,562).

Mach et al. and Schwander et al. are relied upon as described in paragraph 13.

Mach et al. and Schwander et al. do not teach the instantly claimed six membered ring.

Bohler et al. teach spin dyeing polyester with compounds of formula (I) to produce polyesters with good fastness to light and wetness (column 1, lines 1-30; column 3, lines 55-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Mach and Schwander by incorporating the dyes of Bohler because Bohler teaches the dyes are efficient at dyeing polyester and provide good all around fastness properties to the dyed material.

15. Claim 15 is rejected under 35 U.S.C. 103(a) as obvious over Mach et al. (2001/0004780) in view of Bohler (US 4,439,562)

Mach et al. is relied upon as described in paragraph 12.

Mach et al. do not teach the instantly claimed six membered ring.

Bohler et al. teach spin dyeing polyester with compounds of formula (I) to produce polyesters with good fastness to light and wetness (column 1, lines 1-30; column 3, lines 55-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the compositions of Mach by incorporating the dyes of Bohler because Bohler teaches the dyes are efficient at dyeing polyester in the spin and provide good all around fastness properties to the dyed material. It is *prima facie* obvious to combine the two references, each taught for the same purpose, to yield a third composition for that very purpose. *In re Kerkhoven*, 205 USPQ 1069, *In re Pinten*, 173 USPQ 801, and *In re Susi*, 169 USPQ 423 when ingredients are well known and combined for their known properties, the combination is obvious absent unexpected results. A person of ordinary skill in the polyester spin dyeing art would expect

combinations of these materials to behave in the same fashion as the individual materials, absent unexpected results.

16. Claim 17 is rejected under 35 U.S.C. 103(a) as obvious over Mach et al. (2001/0004780) in view of Tucci et al. (US 6,326,015).

Mach et al. is relied upon as described in paragraph 12.

Mach et al. do not teach ink jet printing.

Tucci et al. teach ink jet pigment printing garments in a camouflage pattern (column 9, lines 50-55; column 10, lines 25-35), wherein the fabric may be polyester (column 7, lines 20-36).

One of ordinary skill in the art at the time the invention was made would have been motivated to modify the methods of Mach et al. by incorporating the ink jet printing methods of Tucci because Tucci teach this as an effective method of producing textiles with designs affixed especially camouflage.

17. Claims 1-3 are rejected under 35 U.S.C. 103(a) as obvious over Dreyer et al. (US 3,096,319).

Dreyer et al. teach dyeing polyesters (column 3, lines 25-30) in a dye bath with compositions comprising water insoluble complexes comprising copper, nickel, cobalt or chromium (column 2, lines 44-48) in aqueous suspension (column 3, lines 13-19).

Dreyer et al. do not teach all the instantly claimed embodiments in a single example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the instantly claimed components from the teachings of Dreyer because Dreyer teaches that polyesters can be effectively dyed by these metal complexes in aqueous suspensions for the benefit of great color strength.

18. Claims 1-3 are rejected under 35 U.S.C. 103(a) as obvious over Salathe et al. (US 4,444,564).

Salathe et al. teach dyeing wool/polyesters (abstract) in an exhaust bath (column 3, lines 9-12) with compositions comprising transition metal complexes comprising copper, nickel, cobalt or chromium (column 2, lines 50-60; columns 5,13,15,19 and 21) in aqueous medium (column 24, lines 40-42 and line 57).

Salathe et al. do not teach all the instantly claimed embodiments in a single example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the instantly claimed components from the teachings of Salathe because Salathe teaches that polyesters can be effectively dyed by these metal complexes in aqueous medium for the benefit of great level dyeings with good fastness.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571) 272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AK

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January 21, 2008

Lorna M. Douyon

LORNA M. DOUYON
PRIMARY EXAMINER